

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WILLIE DEBARDELABEN #240689,

Plaintiff,

v.

Case No. 2:11-cv-439
HON. PAUL L. MALONEY

RICHARD M. MCKEON, et al.,

Defendants.

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REPORT AND RECOMMENDATION

Following a jury trial in this matter, this Court entered a verdict in favor of Defendants. On May 19, 2014, Plaintiff filed a Motion for Production of Records on Appeal (Docket #80), requesting that this Court forward his record to the United States Court of Appeals. The undersigned issued an order (Docket #82) on May 21, 2014, denying Plaintiff's motion, explaining that the Court of Appeals is able to access the entire district court record through this Court's electronic filing system. Plaintiff has now filed a Motion for Reconsideration on Production of Trial Records for Appeal (Docket #84). Plaintiff requests that the Court provide Plaintiff, at the government's expense, a paper record of portions of the jury trial transcribed by the court reporter for purposes of Plaintiff's appeal.

Pursuant to 28 U.S.C. § 753(f), fees for transcripts furnished to persons permitted to appeal *in forma pauperis* shall be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous. I recommend that the Court find no basis for making such a certification, and that the Court find that Plaintiff's appeal in this case is not taken in good faith.

Accordingly, it is recommended that Plaintiff's Motion for Reconsideration on Production of Trial Records for Appeal (Docket #84) be denied.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY

UNITED STATES MAGISTRATE JUDGE

Dated: September 3, 2014